

Exhibit No. 6

Date 2-3-09

Bill No. _____



Taxation of Forest Land in Montana

February 3, 2009

Taxation of Forest Land in Montana

"The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law." Art. VIII, Sec. 3, Mont. Constitution "All property in this state is subject to taxation, except as provided otherwise." Section 15-6-101(1), MCA.

Montana law requires all property to be assessed based upon its market value unless the Legislature provides otherwise. The Legislature determined that forest land in Montana should be assessed differently than other property. The current method used to value forest land resulted for the Legislature's recognition in 1991 that the existing method was no longer a viable option.

The Department currently values forest land based upon its forest productivity value. This method of valuation was developed "in order to encourage landowners of private forest lands to retain and improve their holding of forest land, to promote better forest practices, and to encourage the investment of capital in reforestation." 15-44-103, MCA.

Based upon this understanding, the Legislature established the following requirements for the valuation of forest land for tax purposes:

General and uniform methods

- It is the duty of the Department to classify and appraise all taxable lands 15-7-101
- The Department of Revenue must establish general and uniform methods for classifying timberlands 15-7-103(1)(d)
- The methods used by the Department must be adopted by rule pursuant to the Montana Administrative Procedures Act (MAPA) set out in 2-4-101, et seq.

Classification

- Unless included in another class or exempted by law, Class 10 forest land includes:
 - "All forest lands as defined in 15-44-102" 15-6-134(1)(a)
 - Section 15-44-102 defines forest land as:
 - 15 or more contiguous acres
 - In one ownership
 - Capable of producing commercial quantities of timber

- 25 or more cubic feet per acre
- Land that may otherwise qualify as forest land cannot be taxed as forest land if it has been converted to another use
 - Private ski areas may meet each of the requirements set out in 15-44-102 with regard to number of contiguous acres; ownership; and productive capacity, however, because the land has been converted to a ski area, it will generally be valued as commercial land

Periodic Revaluation

- The Department must administer and supervise a program for the periodic revaluation of forestland 15-7-111; 42.18.107, ARM
- Under current law this periodic revaluation must occur every six years 15-7-111(3)
 - The 2009 forest land reappraisal plan has been adopted at 42.18.116, ARM

Valuation Methods

- "All taxable property must be assessed at 100% of its market value except as otherwise provided" 15-8-111(1)
- Pursuant to section 15-6-143, forest land is valued and taxed based upon its forest productivity value
 - Pursuant to 15-44-103, forest productivity value is determined by:
 - Capitalizing the mean annual net wood production at its peak
 - Plus any other agricultural related income
 - Minus annualized expenses
 - Including establishment, protection, maintenance, improvement and management of the crop over the rotation period
- In order to determine forest productivity values under 15-44-103, the Department must
 - Divide the state into valuation zones
 - Recognize marketing areas, timber types, growth rates, access, operability, etc.
 - Establish a uniform system of classification based upon productivity

- Once productivity has been established, it is valued pursuant to 15-44-103, using the formula $V=I/R$
 - V = the per-acre forest productivity of the land
 - I = the per-acre net income of the forest lands in each valuation zone
 - $I=(M \times SV) + AI - C$
 - I = per-acre net income
 - M = the mean annual net wood production
 - SV = the stumpage value
 - AI = the per-acre agricultural income
 - C = the per-unit cost of the products produced
 - R = the capitalization rate
 - Net income must be calculated each year of the base period
 - Base period= most recent 5-year period for which data is available
 - Rolling average of stumpage values
 - Includes agricultural-related net income for same time period
 - Capitalization rate must be calculated for each year of the base period
 - Annual average interest rate on ag loans
 - Reported by Northwest farm credit services
 - Plus effective tax rate
 - Effective tax rate must be calculated each year of the base period
 - Divide total estimated tax due on forest lands by total forest value of those lands
 - DOR must consider purchaser road credits
 - Must use information provided by The University of Montana-Missoula

Tax Rate

- Beginning in tax year 2003, unless otherwise provided, forest land is taxed at 0.35% of its forest productivity value 15-6-143(2)

Assessment

- "The Department of Revenue shall have full charge of assessing all property subject to taxation and equalizing values and shall secure such personnel as is necessary to properly perform its duties" 15-8-101
- The Department must assess forest land by the first Monday in August each year 15-8-201(1)
 - Assessment notices are generally issued in June
- The Department must assess forest land to the person by whom it was owned or claimed or in whose possession or control it was in as of the preceding January 1 15-8-201(2)(a)
 - The Department may issue revised assessments under certain circumstances 15-8-601
 - Escaped assessment
 - Been erroneously assessed
 - Been omitted from taxation
 - Within 10 years
 - Original ownership, possession, or control
 - Must provide notice of revised assessment within 10 days 15-8-601(3)(a)
 - 30 day opportunity for assessment revision review 15-8-601(3)(a)
 - 30 day opportunity to appeal revised assessment to local County Tax Appeal Board (CTAB) 15-8-601(3)(c)

Appeals

- If the owner of any land or improvements is dissatisfied with the Department's market value appraisal or classification, the owner may request an informal assessment review 15-7-102(3)
 - Request must be made in writing
 - Must be submitted within 30 days of receipt of assessment notice

- Department must issue its determination in writing
- If the property owner feels aggrieved by the classification or appraisal after the informal review, the property owner may appeal to the CTAB in the county in which the property is located 15-7-102(6)
 - Appeal must be in writing
 - Must be submitted within 30 days after Department mails notice of determination of informal review
 - Taxpayer or representative must appear
- If, following appeal to the CTAB, a taxpayer is dissatisfied with the result, the taxpayer may appeal the CTAB's decision to the State Tax Appeal Board 15-15-104
 - Appeals from a CTAB to STAB are governed by 15-2-301
- Petition for Judicial Review of a STAB decision may be taken to District Court
 - Must be filed within 60 days
 - In Lewis & Clark County or the county in which the property is located
 - Judicial review conducted pursuant to 2-4-701 et seq.,
 - On the record
- District court decisions may be appealed to Montana Supreme Court 2-4-711
 - Must be filed within 60 days



Dan Bucks
Director

Montana Department of Revenue

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Brian Schweitzer
Governor

Date 2-3-09

Property Assessment Division

Administrator – Randy Wilke (Helena) – 841-2562

Region 1

- Scott Williams, Regional Manager (Kalispell) – 758-5922
- Deb Doney, Area Manager (Kalispell) – 758-5921
 - Flathead and Lake
- Mike Noser, Area Manager (Libby) 293-3461 Ext. 223
 - Lincoln and Sanders

Region 2

- Chuck Pankratz, Regional Manager (Great Falls) - 454-7474
- Joan Vining, Area Manager (Great Falls) – 454-7486
 - Cascade
- Jason Boggess, Area Manager (Great Falls) - 454-7488
 - Blaine, Chouteau, Fergus and Hill
- Marlyann Verploegen, Area Manager (Great Falls) – 454-7484
 - Glacier, Liberty, Pondera and Toole

Region 3

- Jack Shawver, Regional Manager (Jordon) - 557-2772
- Heather Moon, Area Manager (Circle) – 485-3432
 - Dawson, Garfield, McCone, Petroleum, Prairie, Richland and Wibaux
- Tully Tryan, Area Manager (Sheridan) – 765-229
 - Daniels, Phillips, Roosevelt, Sheridan and Valley

Region 4

- Rocky Haralson, Regional Manager (Helena) - 444-2028
- Deb Reesman, Area Manager (Hamilton) – 375-2710
 - Mineral and Ravalli
- Wes Redden, Area Manager (Missoula) – 329-1427
 - Granite and Missoula
- Terry Swope, Area Manager (Helena) – 444-7979
 - Lewis & Clark and Powell

Region 5

- Vacant, Regional Manager (Bozeman) - 582-3401
- Patty White, Area Manager (Bozeman) – 582-3403
 - Gallatin
- Mark Olson, Area Manager (Livingston) – 222-4113
 - Broadwater, Madison, Meagher and Park
- Steve Huntington, Area Manager (Butte) – 497-6285
 - Beaverhead, Deer Lodge, Jefferson and Silver Bow

Region 6

- Larry Richards, Regional Manager (Billings) - 896-4009
- Robin Rude, Area Manager (Billings) – 896-4024
 - Yellowstone
- Kris Todd, Area Manager (Harlowton) – 632-4894
 - Carbon, Golden Valley, Stillwater, Sweet Grass and Wheatland
- Kate Russell, Area Manager (Miles City) – 232-6437
 - Carter, Custer, Fallon and Powder River
- Tammy Bowling, Area Manager (Hardin) – 665-9710
 - Big Horn, Musselshell, Rosebud and Treasure